REMARKS

Status

This Amendment is responsive to the Office Action dated June 1, 2005, in which Claims 1-17 were rejected. Claims 1, 3, 4, 7, 8, and 16 have been amended. No new claims have been canceled and no new claims have been added. Accordingly, Claims 1-17 are pending in the application, and are presented for reconsideration and allowance.

Claim Rejection - 35 USC 103

Claims1, 2, and 4-6 stand rejected under 35 USC 103 as being unpatentable over US Patent No. 6,606,117 B1(Windle) in view of US Patent No. 5,734,794 (White). This rejection is respectfully traversed.

According to the present invention as defined in claim 1, there is provided a method of generating a three-dimensional model. An image capture device having an image display is provided, a template is displayed in the image display, an image of a subject is captured when the subject is framed by the template, and a three-dimensional animation model is generated by means of the image capture device using the captured image. According to claim 3, the three-dimensional animation model is generated using a viewfinder and a template aligned with the viewfinder. According to claim 4, first and second templates are used to capture first and second images of a subject which are used by the image capture device to generate the three-dimensional model.

Neither Windle nor White, individually or in combination makes obvious the present invention.

Windle discloses a content information gathering apparatus system and method that can use a digital camera. As shown in Figure 3, three templates are available to be used individually and not consecutively to capture images. There is no disclosure in Windle of using the template assisted captured image to generate a three-dimensional animation model as claimed. There is no disclosure in Windle of using first and second templates to capture first and second images of the same subject to generate such an animation model. Although Windle discloses three templates, each is to be used individually and not successively to produce an animation model. It should be realized that the animation model

generated according to the present invention is of a three-dimensional static model of the same subject and not successive images which show movement.

White discloses a "computer based system utilizing cues extracted from audio speech to select from among a database of stored image cells to produce synthesized animated characters."(Abstract) The system shown in Figure 2 is very complex using several components which would occupy most of the area of a large table. The claimed invention is directed to a hand held image capture device for generating the three-dimensional animation model. White uses a database storing "the face of an actor or other character articulating some 40 phoneme sounds, in 8 different emotions from 25 different camera angles"(Abstract) In the claimed invention, there is no prestored database of hundreds of previously taken images which are then culled to produce the synthesized animated character. In the claimed invention, there is no storage of phenome sounds and no synchronization of such sounds with previously recorded images. The system of White is far too complex to justify combining it with the camera of Windle, and in fact, such combination does violence to both teachings.

Absent some teaching, suggestion, or incentive supporting the combination, obviousness cannot be established. Claims 1, 2, and 4-6 are therefore clearly nonobvious over the cited references.

Claim Rejection - 35 USC 103

Claims 7-11 stand rejected under 35 USC 103 as being unpatentable over Windle, US Patent No. 6,433,784 (Merrick), and further in view of White. This rejection is respectfully traversed.

According to the invention defined by claim 7, there is provided a method as in claim 1, except first, second, third, and fourth templates respectively representative of front, first side, back, and second side of a subject are used to capture capturing first, second, third, and fourth images of a subject to generate a three-dimensional animation model of the subject by means of the image capture device. The invention defined by claims 8-11 define an image capture device for carrying out the present invention.

The comments presented above relating to the Windle and White patents are equally applicable to this rejection and will not be repeated. Merrick is

cited as teaching the use of different templates representing different views of a subject. The templates of Merrick are entirely different than the claimed templates. The Merrick templates are not used in a digital capture device to frame a subject to assist in capturing an image of the subject. Rather, Merrick discloses a system for preparing fictional animated characters having a vast database of prestored character dialog streams and gestures that can be culled to produce the desired image. The templates referred to are shown on a computer terminal as an aid to choosing one of many gestures to be combined later. The complex system of Merrick is not readily combined with the teachings of the other two patents and there is no motivation in any of the patents to combine one or more with the other{s} to render obvious the claimed invention. In fact, any such combinations render inoperable any such combinations. Clearly, the rejected claims are nonobvious over these references.

Claim Rejection - 35 USC 103

Claim 3 stands rejected under 35 USC 103 as being unpatentable over US Patent No. 5,708,883 (Segan) in view of White. This rejection is respectfully traversed.

The comments above relating to White are equally applicable here and will not be repeated. Segan discloses a toy camera having two lenses 12 and 14 and a two-part alignment reference template through which the image seen in the camera's viewfinder lens 11 can be seen. The template is moved in front of lens 11 at the same time, while the lenses 12, 14 are sequentially used to capture successive images on different regions of film. There is no motivation in either Segan or White of the desirability of combining the complex computer based system of White with the toy camera of Segan. The claimed invention does not use two lenses as in Segan. Clearly Claim 3 is nonobvious over these references.

Claim Rejection - 35 USC 103

Claims 12-17 stand rejected under 35 USC 103 as being unpatentable over Segan in view of Merrick. This rejection is respectfully traversed.

The comments above relating to these two patents are equally applicable here and will not be repeated. In addition, the statement on Page 7 of the Office Action that "Segan teaches a rotatable template member (figure 1: 16) for moving the first and second template member 56a, 56b relative to the two viewfinder taking lenses 12 and 14" is clearly wrong. The two-part template is manually inserted in front of viewfinder lens 11, while aperture plate 16 is rotated separately in front of one or the other of taking lenses 12, 14. The mechanisms are separate from eachother and not mechanically linked. Clearly, these claims are nonobvious over the cited references.

It is clear that the Examiner has used impermissible hindsight and the teachings of this application in an attempt to make obvious the present invention.

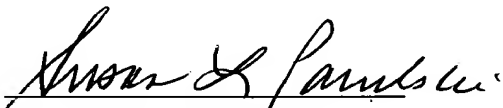
Summary

Should the Examiner consider that additional amendments are necessary to place the application in condition for allowance; the favor is requested of a telephone call to the undersigned counsel for the purpose of discussing such amendments.

For the reasons set forth above, it is believed that the application is in condition for allowance. Accordingly, reconsideration and favorable action are respectfully solicited.

The Commissioner is hereby authorized to charge any fees in connection with this communication to Eastman Kodak Company Deposit Account No. 05-0225.

Respectfully submitted,



Attorney for Applicants
Registration No. 39,324

Susan L. Parulski/law
Rochester, NY 14650-2201
Telephone: (585) 477-4027
Facsimile: (585) 477-4646